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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,743	09/12/2003	Tadashi Kita	11A 3471	8146

3713 7590 11/06/2006

KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1140
LOS ANGELES, CA 90067

EXAMINER

MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary

Application No.

10/661,743

Applicant(s)

KITA

Examiner

Katherine Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/10/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment of 9/18/06 has been received, with claim 1 amended.

Applicant also submitted an IDS on 10/10/06. Claims 1-40 are pending.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawashima et al. (Kawashima, U.S. 5,950,248). Kawashima discloses the invention as claimed. Kawashima teaches protective goggles comprising a frame body compositely formed with a rigid frame member 3 and a resilient frame member 2, at least one replaceable lens 1 having an outer circumferential area, and wherein the outer area abuts against the resilient frame member and engages with the rigid frame member so as to be fixed together. The outer circumferential area is provided with a flange portion 12 and a stopping portion 13 on at least a portion of a whole lens circumference, with the stopping member engaged with the rigid frame member to be fixed together. The lens 1 is extended at a portion 10 to provide a tab portion thereto. The lens alone is detachable with and from a front face side of the frame body in which the rigid and resilient frame members have been combined. Frame member 2 doubles as a face-

abutting cushion member formed in one body with and by the resilient frame member. Nose bridge member 7 connects a right side and left side of the frame body together and is formed in one body with and by the resilient frame member.

Response to Arguments

6. Applicant's remarks have been considered. In attempting to point out the structural differences between the present invention and the prior art of Kawashima, Applicant submits that Kawashima's device is assembled in a different manner than the present invention and that as such, the lens member 1 alone cannot be removed from the front side of the frame member. The Examiner's position is that the method of assembling/disassembling Kawashima's goggles does not carry patentable significance in an apparatus claim, and the lens can be removed from the composite frame body in any manner desired. Applicant further states that lens member 1 cannot be on the front side of the frame member (combination of members 2 and 3) and that the lens member 1 alone cannot be removed from the front side of the composite frame member. The front side of the frame member has not been structurally recited by the claim so as to define over that of Kawashima. Accordingly, any side of Kawashima could be referred to as the front side and Kawashima's goggles meet the claimed recitations.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

October 31, 2006

A handwritten signature in black ink, appearing to read 'K Moran', with a stylized, flowing script.

Katherine Moran

Primary Examiner, AU 3765